

ORIGINAL TRANSCRIPT

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH

In the matter of NAARTJIE
CUSTOM KIDS, INC.,

Debtor.

) HEARING ON MOTION FOR
) POST-PETITION
) FINANCING

) Case No. 14-29666

) Judge Marker
)

TRANSCRIPT FROM ELECTRONIC RECORDING

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P R O C E E D I N G S

THE CLERK: All arise. Court resumes its session. Please be seated.

THE COURT: Good morning. Please call the calendar.

THE CLERK: This is in the matter of Naartjie Custom Kids.

THE COURT: Can I get appearances, please.

MS. JARVIS: Your Honor, Annette Jarvis, Mike Thomson, and Jeff Armington for the debtor in possession for proposed counsel --

THE COURT: I need you to speak up, Ms. Jarvis. Thank you.

MS. JARVIS: Okay. Should I go up here? All right.

THE COURT: Yeah.

MS. JARVIS: Your Honor, Annette Jarvis, Mike Thomson, and Jeff Armington from Dorsey and Whitney as proposed counsel for the debtor in possession.

THE COURT: Thank you.

MR. CANNON: Your Honor, Kenneth Cannon and Jeff Wolf representing Salus Capital Partners.

THE COURT: All right. How are we

1 pronouncing that?

2 MR. CANNON: The way that people from
3 Boston pronounce it, your Honor, is Salus.

4 THE COURT: Thank you.

5 MS. BURTON: Mona Burton on behalf of
6 Target Ease International.

7 MR. KUHN: Peter Kuhn, John Morgan for the
8 United States Trustee.

9 MR. HAWKINS: Tyler Hawkins on behalf of
10 General Growth Properties, also local counsel for
11 Macerich and Westfield. But I understand that lead
12 counsel, Dustin Branch, is also on the phone, so I
13 believe he's making an appearance as well.

14 MR. BRANCH: That's correct, your Honor.
15 Dustin Branch from Katten, Muchin, Rosenman, LLP on
16 the phone on behalf of Westfield, LLC and the
17 Macerich Company.

18 THE COURT: Thank you. All right. We've
19 got a motion and an order that nobody's really had a
20 chance to spend a lot of time with, so -- one thing
21 we didn't get to the other day was an explanation of
22 Salus loan -- Salus? Did I say it right?

23 UNIDENTIFIED MAN: Salus, your Honor.

24 THE COURT: Salus. Okay. I'm going to
25 write that down with a long A. So the papers made it

1 look like it was an October loan for about
2 \$4 million, and there was no description of why the
3 company borrowed the money at that time and what the
4 money was used for.

5 Do we have somebody who can describe that
6 for us? Did it replace an existing facility? Was it
7 new money? And if it was new money, where did it go?

8 MR. WOLF: Your Honor, Jeff Wolf on behalf
9 of Salus Capital Partners. The loan was made by
10 Salus. It was new money. It was not to refinance
11 any old debt. It was to be used by the company for
12 working capital purposes.

13 THE COURT: Okay. That's your client's
14 understanding?

15 MR. WOLF: Correct.

16 THE COURT: Now, from the debtor's
17 perspective, what was it used for?

18 MS. JARVIS: My understanding, your Honor,
19 is it was used for working capital purposes and what
20 happened at --

21 THE COURT: It didn't buy a boat
22 somewhere?

23 MS. JARVIS: No.

24 THE COURT: Okay.

25 MS. JARVIS: It was inventory purchases,

1 payment of leases, you know, the operations of the
2 company. And the company, because of a variety of
3 circumstances, including some unprofitable stores,
4 you know, the general kind of economic condition,
5 came to a point where it needed additional working
6 capital as well as coming up to a point where this
7 short-term loan became due. And that's why we're
8 here today.

9 THE COURT: Okay. So taking a look at a
10 year ago or 11 months ago, so where we are now -- so
11 I'm assuming there wasn't a large obligation to
12 Target Ease at that time.

13 MS. JARVIS: I'm not certain, your Honor,
14 but I -- I believe that some of the -- I mean,
15 clearly, because I think the annual purchase from
16 Target Ease of inventory is about 15.5 million a
17 year. I assume that part of this was used for
18 either, you know, ship -- you know, goods in transit
19 or goods that, you know, had been shipped.

20 THE COURT: Over time. But what I'm
21 trying to get at is -- so there's 3 million,
22 according to papers, owed to Ms. Burton's client at
23 this point, and he's not happy, and there's 4 million
24 outstanding to Salus.

25 So does that mean the company has gone in

1 the hole \$7 million, using very rough math, over the
2 last 11 months?

3 MS. JARVIS: I think -- I mean, yeah. I
4 believe that's -- yeah, that is -- that is -- yeah,
5 the obligation side, that's right. And, you know,
6 the asset side, there's, you know, 8 million in
7 inventory about now, or approximately that, and then,
8 you know, whatever other assets they have, the
9 leaseholds, the -- you know, the South African
10 company that they own the stock in, the IP.

11 THE COURT: Okay. So that -- that change
12 in the amount of cash coming in and where the company
13 is now, you know, when you look at the cash
14 collateral balance sheet, did -- was that cash
15 used -- like did they double -- did the company
16 double its inventory between October of 2013 and now
17 or is it just -- did that money get used up in losses
18 instead of increasing inventory?

19 MS. JARVIS: Yeah.

20 THE COURT: Any idea?

21 MS. JARVIS: Yeah. I'm not certain, your
22 Honor. My guess would be it would be a combination
23 of that, both replacement inventory and dealing with
24 losses. I know that the company knew by January that
25 they were heading into financial problems.

1 They engaged an investment banker at that
2 time. They began to look for options. So this has
3 been a -- this is not a sudden, you know, trying to
4 find some way out. It's been since January that
5 they've been trying to find some solution to this
6 problem.

7 And that process generated only one offer
8 from Victory Park. They -- we went down that road
9 with the company, but that, as you know, ultimately
10 failed.

11 THE COURT: All right. And Mr. Nerland
12 was put in place for his expertise in these types of
13 situations or because there was a fiduciary problem
14 with prior management?

15 MS. JARVIS: No. It was for his
16 expertise. He was brought in on August 4th as we
17 went down this pathway with our one, you know,
18 bidder/financer, Victory Park, to help in bringing
19 that transaction to -- to fruition and for his
20 expertise in the retail industry so that the -- the
21 current CEO, Glenn Woods, could continue to operate
22 the company while the problems were dealt with by
23 someone experienced in dealing with those problems.

24 THE COURT: All right. And so to your
25 knowledge as company counsel, there's no allegations

1 of any wrongdoing on prior management?

2 MS. JARVIS: No, none to my knowledge.

3 THE COURT: Okay. And who has done what
4 due diligence on Salus's pre-petition documents?

5 MS. JARVIS: I believe this was done by
6 the company and by Mr. Nerland. We also were, you
7 know, aware of this transaction, meaning -- so some
8 of it was done by Dorsey, some of it would have been
9 done by the company and by Mr. Nerland.

10 THE COURT: I'm just trying to find out --
11 there are some waivers in these documents.

12 MS. JARVIS: Yeah.

13 THE COURT: What was done to support --
14 was that done on an informed basis?

15 MS. JARVIS: Yes.

16 THE COURT: Or is it just we don't have
17 any other choice so --

18 MS. JARVIS: Combination of both. And,
19 your Honor, the -- the carveout or the -- the waiver
20 is not, you know, applicable to anyone but the
21 debtor. So it's very clear that the amount, the
22 priority, the security, everything can be challenged
23 by other parties.

24 THE COURT: And the --

25 MS. JARVIS: So this is --

1 THE COURT: Okay. Since you brought that
2 up, there's one question I have on the language. All
3 right. And on the -- let's see. So the order that
4 was uploaded this morning is docket number 50, the
5 revised form of the interim order at the --

6 MS. JARVIS: Yes, that's correct.

7 THE COURT: -- bottom paragraph of page 6.
8 This is paragraph E(iii). It says, "The debtor for
9 itself and its estate only."

10 MS. JARVIS: Yes.

11 THE COURT: And then that's replaced --
12 and I'm sorry again, but I haven't had time to
13 connect all the dots. There's a provision for
14 "challenge parties later on," which would include a
15 Chapter 11 trustee.

16 But if the debtor is waiving, for example,
17 certain claims it may have against Salus for itself
18 and the estate, but a possible future Chapter 11
19 trustee may challenge but the estate's already waived
20 any right to challenge, what's the trustee doing? Is
21 that -- am I -- am I nitpicking there or --

22 MS. JARVIS: I think that's a valid
23 question based on the language, but I think our
24 understanding is -- and Mr. Wolf can speak as well --
25 is that there is no waiver at all that applies to a

1 subsequent Chapter 11 trustee, an examiner, estate,
2 you know, representative, a committee, you know, or
3 other parties. It's only the debtor that is bound by
4 this.

5 And we actually just discussed with U.S.
6 Trustee, making it clear in paragraph 33 and 34,
7 which deals with the reservation of rights of these
8 other parties, that the committee and any subsequent,
9 you know, Chapter 11 trustee, examiner, estate
10 representative, or Chapter 7 trustee would have
11 45 days after appointment -- that's one of the
12 changes we would propose after discussing this -- to
13 challenge the secured lender's claim and priority and
14 amount, et cetera.

15 THE COURT: Okay. And you can stay there,
16 please.

17 Mr. Wolf, is it your understanding that
18 your client is -- you may remain seated so I can hear
19 you. Just get the microphone up there nice and snug.

20 Is it your understanding that your client
21 has a first priority lien on the debtor's assets?

22 MR. WOLF: Yes, your Honor, that is my
23 understanding.

24 THE COURT: Okay. And so the priming
25 provision in the documents for this million dollar

1 facility is -- would prime its own lien, but, to your
2 knowledge, does not prime anybody else because there
3 is nobody else?

4 MR. WOLF: No. I believe that there
5 are -- there are -- there is some insider debt that
6 is behind us that -- that is secured, but it's
7 subject to a subordination agreement behind us where
8 we're contractually able to layer in new debt on top
9 of them.

10 THE COURT: All right. Who's the insider
11 debt?

12 MS. JARVIS: I think there are three
13 holders of this subordinated -- well, secured
14 convertible debt. They have been noticed because
15 they are -- they have representatives on the board of
16 the company.

17 THE COURT: Do you know who they are?

18 MS. JARVIS: Yes. There's -- sorry.
19 Nogales Investors, Epic -- I think it's Venture
20 Capital, Brent Bishop.

21 THE COURT: Brent -- I'm sorry?

22 MS. JARVIS: Brent Bishop.

23 THE COURT: All right. And the
24 approximate amount of their claims?

25 MS. JARVIS: Ten million, your Honor.

1 THE COURT: Which would mean that we're
2 starting out with an insolvent estate.

3 MS. JARVIS: Meaning that there's --

4 THE COURT: Just from a secured debt
5 basis.

6 MS. JARVIS: Yeah. Right. Right. Right.
7 Without change in -- or without any challenge to that
8 capital structure, yes.

9 THE COURT: Without any change. What does
10 that --

11 MS. JARVIS: Well, I mean -- in other
12 words, there is -- there is the right for parties,
13 the unsecured creditors committee, to, you know,
14 challenge, you know, both of this -- I mean, the
15 tiers of secured debt.

16 You know, we believe that the -- the debt
17 by Salus, or Salus, is fully secured. We agreed to
18 that. There has been nothing stated with respect to
19 the secured convertible debt, meaning that is an
20 issue, I assume, your Honor, that is going to be --

21 THE COURT: Yeah. And I apologize for all
22 these questions, but in a hearing like this -- I
23 mean, part of it is just doing discovery on the fly,
24 trying to figure out what's going on in the case.

25 MS. JARVIS: Yeah.

1 THE COURT: So I'm not accusing anybody of
2 anything. I'm just trying to get some of the facts
3 out.

4 MS. JARVIS: And I apologize, your Honor,
5 because we have been rapidly trying to put this
6 together, and this has been a rapid education for us,
7 too.

8 THE COURT: Yes. And so to your
9 knowledge -- and Nogales and Mr. Bishop and the third
10 party have knowledge of the priming --

11 MS. JARVIS: Yes.

12 THE COURT: -- provision and are not
13 objecting?

14 MS. JARVIS: Yes. They were noticed and
15 they did not object. And they were also informed --
16 their board representatives were also informed of
17 this.

18 THE COURT: All right. The budget that's
19 attached to the motion, can we take a look at that?
20 Have you checked with Judge Thurman's chambers for a
21 possible final date on this motion?

22 MS. JARVIS: Yes. We received a date of
23 October 1st.

24 THE COURT: The same date as the other
25 hearing.

1 MS. JARVIS: Yes. Yes.

2 THE COURT: Okay. At 10:00?

3 MS. JARVIS: Yes.

4 THE COURT: All right. So this interim
5 order would cover that period?

6 MS. JARVIS: Yes.

7 THE COURT: So is -- is the company -- on
8 the budget there's a line item for U.S. Customs. Is
9 that replacement inventory?

10 MS. JARVIS: No, your Honor. That is
11 actually -- it is a priority tax claim that is paid,
12 you know, on -- on inventory as it comes in or has,
13 you know, come in in the recent past as well as a --
14 kind of an annual fee that is paid to the taxing
15 authority.

16 And I can tell you the reason why this was
17 included is just because this was a priority tax
18 obligation that would need to be paid. And there was
19 some concern that if it wasn't paid there would be
20 some, you know, possible personal liability of the
21 company officers and directors; and it was,
22 therefore, included in here in agreement with Salus.

23 THE COURT: I guess that's why the sales
24 tax is in there as well.

25 MS. JARVIS: Yeah.

1 THE COURT: Is there any provision in this
2 first two weeks for any replacement inventory?

3 MS. JARVIS: No, I don't believe so.

4 THE COURT: Right.

5 MS. JARVIS: We obviously have some goods
6 in transit --

7 THE COURT: Well, that's what I'm --

8 MS. JARVIS: Yeah.

9 THE COURT: That's the next question. Is
10 there stuff sitting on the dock in Long Beach that
11 hasn't been paid for that's just sitting there?

12 MS. JARVIS: I don't believe there is
13 currently. There will be. We certainly will have
14 further discussions about that. And it could be that
15 depending on how things go that we'll ask for some
16 modification, but currently there's nothing in here
17 to pay for inventory, new inventory. That will
18 depend, your Honor.

19 We -- as part of the milestones in here,
20 we are required by Monday to file a motion with this
21 Court to -- and we have a hearing date for
22 October 3rd -- to enter into an agency agreement for
23 basically a liquidator of the inventory. And my --

24 THE COURT: And have you identified
25 somebody to do that?

1 MS. JARVIS: We have been negotiating with
2 someone, and we expect that we will have that agreed
3 to or a stalking-horse contract in place before
4 Monday.

5 THE COURT: All right. Mr. Wolf, you
6 wanted to weigh in?

7 MR. WOLF: Your Honor, if I might.
8 Ms. Jarvis is correct; the debtor is in the process
9 of investigating a stalking-horse bid for -- with a
10 liquidator that will come in and run liquidation
11 sales at the debtor's stores.

12 And until we have that bid and have fully
13 investigated what that will look like -- and that's
14 the collective "we," the secured lender as well as
15 the debtor -- we don't know whether it makes sense to
16 bring in additional inventory because the liquidation
17 bid may well be less than a hundred cents on the
18 dollar for the inventory and so it wouldn't make
19 sense for the debtor to be spending hundred cent
20 dollars to buy -- bring in inventory only to turn
21 around and effectively sell it to a liquidator for,
22 say, 60, 70, \$0.80 on the dollar.

23 So it may be that in this transaction with
24 a liquidator that the -- that the liquidator may want
25 to bring those goods in and may have the opportunity

1 to bring those goods in and we will be asking the
2 Court for the ability to -- to do that if it makes
3 sense in the context of the liquidation model.

4 THE COURT: All right.

5 MS. JARVIS: Right. Your Honor, we'll
6 look at it and see if there's some profit in there
7 for the estate; and if not, then we won't be asking
8 for money to buy new inventory.

9 THE COURT: Have you -- what kind of
10 progress have you made on schedules?

11 MS. JARVIS: I think we are on track to
12 get them filed within the required date. We want to
13 get them on file as quickly as possible. We've been
14 working on them because we realize that this is going
15 rapidly and, therefore, we need to get those
16 schedules on file. So we --

17 THE COURT: And do you have in mind some
18 general numbers for claims other than Salus and
19 Target Ease, which are large? And I -- we'll avoid
20 for the time being any rejection damages claims or
21 anything like that, but just trade debt and taxes.

22 MS. JARVIS: I don't think there's a lot
23 because I think if -- I mean, Target Ease was the
24 major supplier of the company; so other than the
25 rent, you know, obligations to leases, there is

1 minimal beyond on what's owed Target Ease.

2 THE COURT: All right. And, Ms. Burton,
3 have you had a chance to take -- talk to your client
4 about whether its claim is -- is there any security
5 for that \$3 million figure?

6 MS. BURTON: I was just retained
7 yesterday, your Honor. If I may remain seated --

8 THE COURT: Yes.

9 MS. BURTON: I think you can hear me
10 better.

11 My client's in Hong Kong. The people I
12 deal with do speak a good bit of English. They are
13 unfamiliar completely with the bankruptcy process in
14 the United States. I have only had two very short
15 conversations with them.

16 I believe there is no collateral. I
17 believe there are no guarantors. There is a shipment
18 on its way to the Port of Oakland which will arrive,
19 we believe, before the end of this month.

20 Under the terms of the contract, the -- a
21 payment of \$1.67 million would have to be made to the
22 freight forwarder for the goods to be released to the
23 debtor.

24 MS. JARVIS: I might add, your Honor, that
25 we did -- when we filed our list of 20 largest

1 unsecured creditors on the petition date, that's
2 probably most of what there is in unsecured debt.

3 THE COURT: All right. That's helpful.
4 Thank you.

5 All right. Those are my preliminary
6 questions. Anybody else right now? Mr. Morgan? No?
7 Anything you want to hear?

8 MR. MORGAN: Not beyond what the Court has
9 already asked, your Honor.

10 THE COURT: All right. Ms. Burton,
11 anything you want to hear?

12 MS. BURTON: Well, I would certainly like
13 to know that --

14 THE COURT: I'm not treating this as a
15 traditional contested matter because of the expedited
16 nature, so --

17 MS. BURTON: I understand, your Honor.
18 And I realize that the debtor and the lender are
19 trying to put things together quickly. I was -- like
20 I say, I was only retained late yesterday. I still
21 do not know a lot.

22 I am a little concerned that with my
23 client owed as much money as it is that it may end up
24 faced with a demand for turnover of inventory without
25 payment even though the contract requires that the

1 payment be made before the inventory is transferred
2 at the Port of Oakland.

3 And I don't know -- and I have not had a
4 chance, because of the 10:30 hearing I had before,
5 your Honor -- and preparation for that -- I have not
6 had a chance to review the order. I don't know if
7 there are any provisions in there that might
8 prejudice my client in that regard.

9 So if the debtor's in a position to say
10 the order does not require turnover of the inventory
11 without payment, that would be helpful.

12 THE COURT: It doesn't address that issue
13 at all?

14 MS. JARVIS: No.

15 MS. BURTON: Thank you.

16 THE COURT: Mr. Hawkins?

17 MR. HAWKINS: No. I have nothing.

18 THE COURT: All right.

19 MS. JARVIS: And we did also have some
20 correspondence with the landlords, which is why we
21 made sure in the order that the -- the DIP lien
22 applies only to the proceeds of the leases, not to
23 the leaseholds themselves. So that was done in
24 writing.

25 THE COURT: And for the landlords who are

1 listening, were all of the -- as far as you know,
2 Mr. Nerland, all of the leases paid on September 1st?

3 MR. Nerland: They [indeterminable].

4 THE COURT: They were not paid -- none of
5 them?

6 MR. Nerland: Some were, some were not.

7 THE COURT: Okay. All right. And we've
8 got other payments due October 1st?

9 MR. Nerland: Correct.

10 THE COURT: And does the budget cover
11 October 1st rent?

12 MR. Nerland: Yes. And the budget also
13 covers the stub -- the post-petition stub period for
14 all -- for the stores that weren't paid.

15 MS. JARVIS: And, your Honor, I also might
16 say the company has been pretty much in daily
17 conversation with Target Ease. Obviously, we tried
18 to come in here to -- you know, to have a DIP to pay
19 them and to continue in business that failed.

20 So there have been, you know -- I mean,
21 they are informed by the company of -- have been
22 pretty much on a day-to-day basis as to what's going
23 on.

24 THE COURT: Okay. All right. Well, those
25 are the questions I had about the budget and about

1 the interim relief request.

2 And I see that there's a -- yet a third
3 form of the order that hasn't been filed yet,
4 correct?

5 MS. JARVIS: Right. Well, there are
6 actually a couple things -- just right before we
7 discuss, there is one request -- I mean, we -- we
8 filed the -- the wrong form of order last night. We
9 replaced it by the right form of order and provided
10 everyone with redlines this morning.

11 There was one other clarification that
12 I -- that was requested by Salus --

13 THE COURT: Well, the -- I'm sorry. The
14 redline that I got, is that between docket 49 and 50
15 or between 50 and is as yet unfiled order?

16 MS. JARVIS: No. It's between 49 and 50.

17 THE COURT: Okay.

18 MS. JARVIS: Yeah. Just so everyone could
19 see quickly, if they had reviewed the old order, what
20 was changed.

21 THE COURT: All right.

22 MS. JARVIS: We do have a couple other
23 changes that have been requested by the parties. As
24 we discussed with the U.S. Trustee in paragraph 33,
25 we will make it clear that in defining, you know, a

1 trustee appointed in the Chapter 11 case and in the
2 successor case, an examiner or estate representative,
3 that they will all be defined to fit in the category
4 that -- along with the statutory committee -- that
5 now provides in Romanette -- or A(ii) at the end of
6 this paragraph on page 35 -- that they will be
7 allowed to have 45 days after the appointment to
8 challenge Salus's loan and amount, priority, et
9 cetera.

10 So that -- that will be clarified because
11 it only dealt with the statutory committee and didn't
12 have a period. So it's been extended by 45 days in
13 agreement with Salus and also to include the other
14 estate representatives that might come up.

15 We also had one other change. And this,
16 actually, is on -- I think this is on a second
17 redline. And I apologize, your Honor. It just
18 was -- we're doing this quite rapidly. If I can hand
19 this up to your Honor if this is helpful -- no.
20 Okay.

21 In paragraph, it would be -- of the order,
22 so in (a), when we're defining --

23 THE COURT: I'm sorry. What paragraph?

24 MS. JARVIS: (a), the very, very first --
25 on page 2 of the order. It's just a change to make

1 clear that the definition of credit agreement
2 includes the DIP term sheet as well as the ultimate
3 debtor in possession credit agreement.

4 So there's a few just word changes just
5 clarifying that when we refer to DIP credit
6 agreement, we're dealing with both the -- the term
7 sheet in the interim and then the ultimate credit
8 agreement which has to be filed five days after the
9 order is entered.

10 THE COURT: All right.

11 MS. JARVIS: We also had one other request
12 from Salus, and that is in some instances it's --
13 it's been -- they have a right under their
14 pre-petition credit agreement to issue notice of
15 dominion over our bank accounts. This order gives
16 them the right to -- to issue that as part of this
17 DIP credit agreement in order to take control over
18 the cash.

19 In some instances when those are filed on
20 banks, there's been a delay and they just freeze it
21 and do nothing for a while. So we have ran it by the
22 parties here to add in a paragraph that would just
23 make it clear that the banks shall take this order
24 as -- as allowing them, directing them, to release
25 the cash in accordance with this order.

1 THE COURT: All right.

2 MS. JARVIS: And then finally, your Honor,
3 there was in -- I think it's paragraph three on page
4 12 -- let's see. I just wanted on the record to put
5 a clarification in here. There are references, if
6 you look at the top of page 13, to various fees,
7 unused facility -- or facility fees, continuing
8 commitment fees, monitoring exit fees, et cetera. We
9 asked for clarification.

10 While we didn't change this language, we
11 did ask Salus for clarification that there are no
12 extra fees other than the exit fee, the one percent
13 exit fee, that are incurred as part of this DIP
14 financing. And perhaps Mr. Wolf would just like to
15 speak to that.

16 MR. WOLF: Your Honor, Jeff Wolf on behalf
17 of Salus Capital Partners. That is confirmed. The
18 only fee that's going to be charged in connection
19 with this DIP is the one percent exit fee on the
20 million dollar commitment.

21 But I just do want to make clear that
22 there are the normal day-to-day fees, such as wire
23 charges, if there's an appraisal charge that's not --
24 those are all third party out-of-pocket costs and
25 expenses but they're not fees.

1 MS. JARVIS: That's our understanding as
2 well, your Honor.

3 THE COURT: All right. The professional
4 fee escrow funding, it mentions Dorsey
5 [indeterminable] his -- there's no employment --

6 MS. JARVIS: No. They --

7 THE COURT: -- pleadings on them.

8 MS. JARVIS: Right. They will be filing
9 one shortly as 327(e) counsel to assist, because of
10 their expertise in this auction, for a short period
11 of time with respect to the inventory. So that is in
12 anticipation of that, and I expect that that will be
13 on file in the next day or two.

14 THE COURT: And who's SCP?

15 MS. JARVIS: Sierra Capital -- yeah,
16 Sierra Capital Constellation. This is Jeff Nerland's
17 group that has been operating -- or been the CRO for
18 the company.

19 THE COURT: All right. That's 20,000
20 [indeterminable]. Is that -- that's Mr. Nerland and
21 who else?

22 MS. JARVIS: He has another associate that
23 works with him on this, too. I think it's William
24 White. William White.

25 THE COURT: All right. Ms. Burton needs

1 some time.

2 Mr. Kuhn, Mr. Morgan, do you need more
3 time to go over the order?

4 MR. KUHN: It would be helpful your Honor,
5 yes.

6 THE COURT: All right.

7 MS. BURTON: Your Honor, if I may, I -- I
8 think they're doing a redline based upon the changes
9 they've discussed this morning before. That would be
10 helpful if they could circulate that for our review.

11 THE COURT: All right. So what I'm -- I
12 guess what I'm asking is do you want to sit here and
13 grind through it or I can approve the interim relief
14 request that's subject to endorsements of the final
15 form of order?

16 MS. BURTON: I'm fine with that.

17 UNIDENTIFIED MAN: Fine with that, your
18 Honor.

19 THE COURT: All right. And as well, on
20 the U.S. Trustee side, I'm still waiting for
21 endorsements on the first day orders before I sign
22 them. I did get endorsements from Salus.

23 MR. KUHN: We're close. I need to look at
24 one order. The rest are all acceptable, and we'll
25 have that out --

1 THE COURT: And I just want to let you
2 know I was waiting, so -- okay.

3 All right. Anybody else wish to be heard?
4 All right. Well, it's an expedited hearing, but the
5 relief requested is appropriate under the
6 circumstances; and I'll grant interim relief subject
7 to endorsements by the U.S. Trustee, Salus, and
8 Target Ease on the final form of order, with a
9 hearing to be held before Judge Thurman.

10 If you'll fill in those dates as well in
11 page -- on paragraph 46, the date and time of the
12 hearing before Judge Thurman, and then I'll sign that
13 when I get the endorsements. All right?

14 MS. JARVIS: Thank you, your Honor. We do
15 appreciate you allowing us to come before you today.

16 THE COURT: Oh, you're welcome. I --
17 what's that old movie saying? Who is it, Betty --
18 "Fasten your seatbelts; you're in for a bumpy ride,"
19 something like that.

20 MS. JARVIS: It's been bumpier than we
21 thought.

22 THE COURT: Thank you for your time.

23 MS. JARVIS: Thank you, your Honor.

24 THE CLERK: All arise.

25 (Hearing concluded at 11:39 a.m.)

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